

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM



INFORMATION

TOPIC

**Proposed Rule – Adopt IAC 567 Chapter 124– “Mercury Switch
Recovery from End-of-Life Vehicles ”**

Attached for the Commission’s information and review is a Notice of Intended Action to adopt IAC 567—Chapter 124 “Mercury Switch Recovery from End-of-Life Vehicles.” This rulemaking is in response to House File 2362, Mercury Free Recycling Act, passed by the 2006 Iowa Legislature.

The proposed rule is taken directly from the legislation that was passed with only minor formatting changes.

Mercury switches were used in convenience lighting in vehicles as recently as 2002. If the mercury switches are not removed when the vehicle is retired, the mercury will be released to the environment when the metal is recycled. The Mercury-Free Recycling Act requires auto manufacturers to implement a system to recover at least 90% mercury switches from end-of-life vehicles. Manufacturers will submit a plan to the Environmental Protection Commission (EPC) by September 30, 2006 detailing how they will implement , operate and maintain the collection system. Manufacturers are responsible for all of the costs of the system including labor to remove the switches, packaging, shipping, recycling or disposal, training for program participants and public education.

The Mercury Free Recycling Act includes a provision that will repeal the act if a national agreement is reached that has a 90% target recovery rate and a funding mechanism that provides for the total cost of the program. Although a national agreement is being discussed, it has not yet been finalized.

The Commission will be asked to approve this Notice of Intended Action at its August meeting.

Theresa Stiner, Environmental Specialist Senior
Energy & Waste Management Bureau
Environmental Services Division

June 27, 2006

ENVIRONMENTAL PROTECTION COMMISSION

Notice of Intended Action

Pursuant to the authority of Iowa Code section 455B division X, the Environmental Protection Commission hereby gives Notice of Intended Action to adopt Iowa Administrative Code 567-Chapter 124, “Mercury Switch Recovery From End-of-Life Vehicles.”

This rulemaking is in response to House File 2362, passed by the 2006 Iowa Legislature. The proposed rule is taken directly from the legislation that was passed with only minor formatting changes.

Any interested person may make written suggestions or comments pertaining to the proposed rule revisions on or before _____. Such written materials should be directed to Theresa Stiner, Energy & Waste Management Bureau, Iowa Department of Natural Resources, 502 East 9th Street, Wallace State Office Building, Des Moines, IA 50319-0034; fax (515) 281-8646 or Theresa.Stiner@dnr.state.ia.us. Persons wishing to convey their views orally should contact Theresa Stiner at (515) 281-8646.

When submitting comments, the Energy and Waste Management Bureau encourages stakeholders to utilize the following guidelines. These guidelines aid the Bureau in accurately understanding and creating a record of your input.

1. Include your mailing address and contact information.
2. Please state if you are submitting comments on behalf of a business, organization or as an individual.
3. Cite the specific rule(s) on which you are commenting.
4. Explain your views as clearly as possible by describing any assumptions, data, or technical information you utilized.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative language that you think would improve the specific rule(s) and explain why.

A public hearing will be held on _____ from _____ in the _____, at which time persons may present their views either

orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rule.

Any persons who intend to attend the public hearing and have special requirements, such as hearing or mobility impairments, should contact the Department of Natural Resources to advise of special needs.

The following amendment is proposed:

ITEM #1. Adopt the following new chapter 567-124:

Chapter 124
Mercury Switch Recovery From End-of –Life Vehicles

567-124.1 (455B) Purpose The purpose of this Chapter is to implement Iowa Code chapter 455B.Division X, to reduce the quantity of mercury in the environment by removing mercury-added switches from end-of-life vehicles in Iowa, and creating a collection, recovery, and incentive program for mercury-added switches removed from vehicles in Iowa.

567-124.2 (455B) Compliance

Except as expressly provided in this chapter, compliance with this chapter shall not exempt a person from compliance with any other law.

567-124.3 (455B) Definitions.

"Capture rate" means the amount of mercury removed, collected, and recovered from end-of-life vehicles, expressed as a percentage of the mercury available from mercury-added switches in end-of-life vehicles annually.

"End-of-life vehicle" means any vehicle which is sold, given, or otherwise conveyed to a vehicle recycler or scrap recycling facility for the purpose of recycling and that does not exceed ten thousand pounds gross vehicle weight.

"Manufacturer" means any person that is the last person to produce or assemble a new vehicle that utilizes mercury-added switches, or in the case of an imported vehicle, the importer or domestic distributor of such vehicle. "Manufacturer" does not include a person that has never utilized a mercury-added switch in the production or assembly of a new vehicle.

"Mercury-added switch" means a light switch that contains mercury which was installed by a manufacturer in a motor vehicle.

"Scrap recycling facility" means a fixed location where machinery and equipment are utilized for processing and manufacturing scrap metal into prepared grades and whose principal product is scrap iron, scrap steel, or nonferrous metallic scrap for sale for remelting purposes.

"Vehicle recycler" means any person engaged in the business of acquiring, dismantling, or destroying six or more vehicles in a calendar year for the primary purpose of resale of the vehicles' parts.

567-124.4 (455B) Plans for removal, collection, and recovery of vehicle mercury added switches.

124.4 (1) By September 30, 2006, each manufacturer of vehicles sold in this state shall, individually or as part of a group, develop and publish a plan for a system to remove, collect, and recover mercury-added switches from end-of-life vehicles that were manufactured by the manufacturer. Publication shall be in accordance with Iowa code section 455B.807, subsection 2 and IAC 567-124.6(2).

124.4 (2) The manufacturer shall implement a system to remove, collect, and recover mercury-added switches from end-of-life vehicles within ninety days of publication of the plan. The system developed and implemented pursuant to this section shall provide, at a minimum, all of the following:

a. Educational materials about the program to inform the public and other stakeholders about the purpose of the collection program and how to participate in the program.

b. A method for implementing, operating, maintaining, and monitoring the system, in accordance with 577-124.4(6). This may include the use of third-party contractors that are qualified and fully insured to perform these tasks.

c. Information about mercury-added switches identifying all of the following:

(1) The make, model, and year of vehicles potentially containing mercury-added switches.

(2) A description of the mercury-added switches.

(3) The location of the mercury-added switches.

(4) The safe, cost-effective, and environmentally sound methods for the removal of the mercury-added switches from end-of-life vehicles.

d. A method to arrange and pay for the transportation of the collected mercury-added switches to permitted facilities.

e. A method to arrange and pay for the recycling of the mercury-added switches.

f. A method to track participation and publish the progress of the mercury-added switch collection in accordance with IAC567-124.6(2).

g. A database of participating vehicle recyclers, including all of the following:

(1) Documentation that the vehicle recycler joined the program.

(2) Records of all submissions by a vehicle recycler of any information required pursuant to IAC 567-124.4(2)f.

(3) Confirmation that the vehicle recycler has submitted switches at least every twelve months since joining the program.

h. A target mercury-added switch capture rate for vehicles manufactured by the manufacturer of ninety percent. A description of additional or alternative actions that shall be implemented by the manufacturer to improve the system and its operation in the event that the target capture rate is not met shall be published with the required tracking information no less than annually.

i. The program shall not include inaccessible mercury-added switches from end-of-life vehicles with significant damage to the vehicle in the area surrounding the mercury-added switch location. All accessible mercury-added switches are expected to be collected under the provisions of this division.

124.4 (3) In developing a removal, collection, and recovery system for end-of-life vehicles, a manufacturer shall, to the extent practicable, utilize the existing end-of-life vehicle recycling infrastructure.

124.4 (4) If the commission determines that the manufacturer's plan for a system to remove, collect, and recover mercury-added switches from end-of-life vehicles does not comply with this section, the commission may require the manufacturer to make any necessary modification to the plan.

124.4 (5) On July 1, 2020, the commission shall cease enforcement of the removal, collection, and recovery plans under this section. On or before July 1, 2020, the commission shall review the mercury-added switch removal, collection, and recovery portion of this division and submit a recommendation to the general assembly regarding the necessity of continuing the enforcement of the removal, collection, and recovery plans under this section.

124.4(6) The total cost of the removal, collection, and recovery system for mercury-added switches shall be paid by the manufacturer. Costs shall include but not be limited to all of the following:

- a. Labor to remove mercury-added switches. Labor shall be reimbursed at a minimum rate of four dollars per mercury-added switch removed, or if the vehicle identification number of the source vehicle is required for reimbursement, at a minimum rate of five dollars.
- b. Training.
- c. Packaging in which to transport mercury-added switches to recycling, storage, or disposal facilities.
- d. Shipping of mercury-added switches to recycling, storage, or disposal facilities.
- e. Recycling, storage, or disposal of the mercury-added switches.
- f. Public education materials and presentations.
- g. Maintenance of all appropriate systems and procedures to protect the environment from mercury contamination from collected mercury-added switches.

124.4(7) A vehicle recycler that performs as required under a removal, collection, and recovery plan shall be afforded the protections provided in Iowa code section 613.18.

567-124.5 Prohibition and proper management of mercury added vehicle switches.

124.5(1). Prior to delivery to a scrap recycling facility, a person who sells, gives, or otherwise conveys ownership of an end-of-life vehicle to the scrap recycling facility for recycling shall remove all mercury-added switches from such end-of-life vehicle unless the mercury-added switch is inaccessible due to significant damage to the end-of-life vehicle in the area where the mercury-added switch is located.

124.5(2) A person shall not represent that mercury-added switches have been removed from a vehicle or vehicle hulk being sold, given, or otherwise conveyed for recycling if that person has not removed such mercury-added switches or arranged with another person to remove such switches.

567-124.6 (455 B) Public Notification

124.6 (1) The department shall make available to the general public in an electronic format the plan of a manufacturer for a system to remove, collect, and recover mercury-added switches from end-of-life vehicles and any report required under IAC 567-124.7.

124.6(2) Publication of all required plans, information, reports, and educational materials under this division shall be through no less than two types of media available to the general public. One medium must be available twenty-four hours per day, seven days per week, and maintained with current information. Acceptable types of media include

but are not limited to internet websites, periodicals, journals, and other publicly available media in the state.

567-124.7 (455B) Reporting

One year after the implementation of a removal, collection, and recovery system, and annually thereafter, a manufacturer subject to section 455B.803 shall report to the department concerning the performance under the manufacturer's plan. The report shall include statistical information received under section 455B.803. The report shall also include but not be limited to all of the following:

- a. The number of mercury-added switches collected.
- b. An estimate of the amount of mercury contained in the collected switches.
- c. The capture rate as defined in section 455B.802.
- d. The estimated number of vehicles manufactured by the manufacturer containing mercury-added switches.
- e. The estimated number of vehicles manufactured by the manufacturer that have been processed for recycling by vehicle recyclers.

567-124.8 (455B) State procurement.

Notwithstanding other policies and guidelines for the procurement of vehicles, the state shall, within one year of the effective date of this Act, revise its policies, rules, and procedures to give priority and preference to the purchase of vehicles free of mercury-added components taking into consideration competition, price, availability, and performance.

567-124.9(455B) Future repeal of mercury Free Recycling Act – Implementation of National Program.

124.9(1) If a national mercury switch recovery program is developed and implemented with the cooperation and approval of the United States environmental protection agency, the provisions of this division shall be superseded by the provisions of the national program, and sections 455B.801 through 455B.809, as enacted in this division of this Act, are repealed, provided the following conditions are met:

- a. The national program includes a target mercury-added switch capture rate for this state that meets or exceeds the target capture rate established in section 455B.803, as enacted in this division of this Act.
- b. The national program includes a funding mechanism that provides for the total costs of the national mercury switch recovery program implemented in this state to be paid for by program participants or with federal moneys.

124.9(2) The director of the department of natural resources shall notify the Code editor of the date when the national mercury switch recovery program is implemented.

These rules are intended to implement Iowa Code section 455B.801 through 455B.809

Date

Jeffrey R. Vonk, Director

Administrative Rule Fiscal Impact Statement

Date:

Agency: Iowa Department of Natural Resources
IAC Citation: 567—IAC Chapter 124
Agency Contact: Theresa Stiner (515) 281-8646

Summary of the Rule:

This rulemaking is in response to House File 2362, passed by the 2006 Iowa Legislature. The proposed rule is taken directly from the legislation that was passed with only minor formatting changes.

Fill in this box if the impact meets these criteria:

- ☒ No Fiscal Impact to the State.
☐ Fiscal Impact of less than \$100,000 annually or \$500,000 over 5 years.
☐ Fiscal Impact cannot be determined.

Brief Explanation: The proposed rule

Fill in the form below if the impact does not fit the criteria above:

☐ Fiscal Impact of \$100,000 annually or \$500,000 over 5 years.

* Fill in the rest of the Fiscal Impact Statement form.

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY)</u>	<u>Year 2 (FY)</u>
Revenue by Each Source:		
GENERAL FUND		
FEDERAL FUNDS		
Other (specify)		
TOTAL REVENUE	_____	_____
Expenditures:		
GENERAL FUND		
FEDERAL FUNDS		
Other (specify)		
TOTAL EXPENDITURES	_____	_____
NET IMPACT		

 X This rule is required by State law or Federal mandate.

Please identify the state or federal law:

These rules are required by 455B.806

 Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

 Funding has not been provided for the rule.

Please explain how the agency will pay for the rule change:

Fiscal impact to persons affected by the rule:

Because the provisions of this rule are already contained in code, this rule will have no additional fiscal impact on affected parties.

Fiscal impact to Counties or other Local Governments (required by Iowa Code 25B.6):

Because the provisions of this rule are already contained in code, this rule will have no additional fiscal impact on counties or local governments.

* If additional explanation is needed, please attach extra pages.

Agency Representative preparing estimate:

Telephone Number: Theresa Stiner (515) 281-8646